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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,153	01/16/2001	Ghassan Naim	017.39287X00	2840
7590	12/29/2004		EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP SUITE 1800 1300 NORTH SEVENTEENTH STREET ARLINGTON, VA 22209			NGUYEN, TOAN D	
		ART UNIT	PAPER NUMBER	
			2665	

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/759,153	NAIM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Toan D Nguyen	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 September 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 13 is/are rejected.
- 7) Claim(s) 11-12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1 lines 11-12 and claim 8 lines 7-8, the applicant discloses the controller is separate and independent from the first network element and the second element.

According to the specification on page 8 line 6, the resource controller is located at base station (figure 3, reference 44). Therefore, the claims are not supported in the specification.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Basu et al. (U.S. Patent 6,097,733).

In so far as understood with respect to claim 8, Basu et al. disclose system and associated method of operation for managing bandwidth in a wireless communication system supporting multimedia communications, comprising:

a plurality of first stations (figure 1, col. 4 lines 55-57);  
a second station connected to said plurality of first stations through a plurality of communication links (figure 1, col. 4 lines 54-62);  
a controller for controlling the allocation of said communication resources among said links (figure 2, col. 7 lines 11-28);  
said allocation being performed in accordance with information transmitted from said first stations which indicates a need for communication resources (figure 7, col. 12 line 1 to col. 13 line 3).

For claim 9, Basu et al. disclose wherein said controller is part of said base station (figure 2, col. 2 lines 58-60 and col. 7 lines 11-16).

For claim 10, Basu et al. disclose wherein said first stations are mobile stations in a wireless network (figure 1, col. 4 lines 55-57).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang et al. (EP 0981229 A2) in view of Basu et al. (U.S. Patent 6,097,733).

In so far as understood with respect to claims 1, 2 and 7, Hwang et al. disclose controlling asymmetric dynamic radio bearers in mobile packet data communications system, comprising:

monitoring an indication of future need of communication resources in said first network element (figure 1, page 3, col. 4 lines 18-25);

sending the indication from the first network element to the controller (page 3, col. 4 lines 18-25 and col. 4 lines 51-53);

controlling the communication resources between the first network element and the second network element based on this indication (Abstract lines 1-9, page 2, col. 2 line 18 to page 3 line 1).

However, Hwang et al. do not explicitly disclose a controller for the second network element (base station means). In an analogous art, Basu et al. disclose a controller for the second network element (figure 2, col. 2 lines 58-60). Basu et al. disclose further wherein the first network element is connected to the controller by

way of the second network element (col. 7 lines 29-33 as set forth in claim 2); wherein the first network element is a mobile station and the second network element is a base station of a wireless communication network (figure 1, col. 4 lines 55-62 as set forth in claim 7).

One skilled in the art would have recognized a controller for the second network element (base station means) to use the teachings of Basu et al. in the system of Hwang et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the controller for the second network element as taught by Basu et al. in Hwang et al.'s system with the motivation being included a wired Internet connection that provides access to the Internet, a public switched telephone system connection and a wireless service interface that facilitates the voice communications and the multimedia communications within the service area (col. 2 lines 58-65).

For claim 3, Hwang et al. disclose wherein the indication includes information about a transmit buffer of the first network element (page 2, col. 2 lines 23-44).

For claim 4, Hwang et al. disclose wherein the indication includes information on the additional resources needed for said first network element (figure 4, page 2, col. 2 lines 28-34 and page 5, col. 7 lines 9-36).

For claim 5, Hwang et al. disclose wherein the indication includes corresponding to predefined resources (page 2, col. 2 lines 21-27).

For claim 6, Hwang et al. disclose wherein the indication includes information about a transmit buffer of the first network element (figure 4, page 2, col. 2 lines 28-34 and page 5, col. 7 lines 9-36).

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Basu et al. (U.S. Patent 6,097,733) in view of Hwang et al. (EP 0981229 A2).

For claim 13, Basu et al. do not disclose wherein said indication is provided for each data block transmitted. In an analogous art, Hwang et al. disclose wherein said indication is provided for each data block transmitted (page 3, col. 4 lines 18-25). However, Hwang et al. do not explicitly disclose each data block is transmitted. To include each data block transmitted would have been obvious to one of ordinary skill in the art since words, characters, or digits handled as a unit in data transmission.

One skilled in the art would have recognized wherein said indication is provided for each data block transmitted to use the teachings of Hwang et al. in the system of Basu et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the indication is provided for each data block transmitted as taught by Hwang et al. in Basu et al.'s system with the motivation being to increase or decrease the number of the plural radio bearers established (page 3, col. 4 lines 18-25).

### ***Allowable Subject Matter***

8. Claims 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

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9. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

The amended claim 1 lines 11-12, and claim 8 lines 7-8 are not supported from the specification. Therefore, the examiner retained the previous rejection.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER